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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,649	07/16/2003	Gordon S. Hewitt	024.0007	1037

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INGRASSIA FISHER & LORENZ, P.C.  
7150 E. CAMELBACK, STE. 325  
SCOTTSDALE, AZ 85251

EXAMINER
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PIZIALI, JEFFREY J

ART UNIT	PAPER NUMBER
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2629

DATE MAILED: 06/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Notice of Non-Compliant Amendment (37 CFR 1.121)

Application No.

10/621,649

Examiner

Jeff Piziali

Applicant(s)

HEWITT ET AL.

Art Unit

2629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 17 March 2006 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
  - ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other \_\_\_\_\_.
- ☐ 2. Abstract:
  - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other \_\_\_\_\_.
- ☐ 3. Amendments to the drawings:
  - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other \_\_\_\_\_.
- ☒ 4. Amendments to the claims:
  - ☐ A. A complete listing of all of the claims is not present.
  - ☒ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☒ E. Other: See Continuation Sheet.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):  
\_\_\_\_\_

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

## TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

**Extensions of time** are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

**Failure to timely respond** to this notice will result in:

**Abandonment** of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

**Non-entry** of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Legal Instruments Examiner (LIE), if applicable

Telephone No.

## Continuation of 4(e) Other:

First and foremost, the applicants are cordially thanked for the 'Reply to Election Requirement' filed 17 March 2006. However, several seemingly non-compliant claim amendments have been discovered in the aforementioned paper, requiring attention before examination may continue.

37 C.F.R. § 1.121(c)(2) requires, "The text of any deleted matter [in a currently amended claim] must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters."

However, in contrast, the 'Reply to Election Requirement' filed 17 March 2006 at least appears to improperly seek to delete subject matter from claim 1, without providing marked-up text and without identifying the claim as being "Currently Amended." For instance, claim 1, line 7 is missing the subject matter of "aperture located" between "a respective" and "between the eyepiece" as found in the immediate prior version of the claim (see Page 2 of the 'Response and Amendment Pursuant to 37 C.F.R. § 1.111' filed 8 December 2005).

Additionally, claim 1, line 10 is missing the subject matter of "the" between "right modules," and "aperture is configured" as found in the immediate prior version of the claim (see Page 2 of the 'Response and Amendment Pursuant to 37 C.F.R. § 1.111' filed 8 December 2005).

By such reasoning, this Notice of Non-Compliance is deemed necessary and proper at this time.

Please note: The amendment has not been checked to the extent necessary to determine the presence of all possible non-compliance errors. If additional issues of non-compliance are discovered at the time of a subsequent amendment, yet another Notice of Non-Compliant Amendment will be necessitated. Applicants' cooperation is requested in correcting any other errors of which applicants may become aware.

The applicants are hereby notified that the examiner's art unit has recently changed from Art Unit 2673 to Art Unit 2629, please direct all future correspondence accordingly. Thank you.



J.P.  
30 May 2006